

EXHIBIT G



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

SENT BY CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 30, 2015

Mr. David M. Yanofsky
Quartz
613 Foothill Road
Beverly Hills, California 90210

Ms. Marisa Johnson
Senior Counsel
The Atlantic Group, Inc.
600 New Hampshire Avenue, N.W.
Washington, D.C. 20037

RE: DOC-ITA-2016-000872

Dear Mr. Yanofsky and Ms. Johnson:

This letter is in response to your Freedom of Information Act (FOIA) request dated February 26, 2016, that the International Trade Administration (ITA) received March 29, 2016. On behalf of Atlantic Monthly Group, Inc., you sought “copies of the Office of Travel & Tourism Industries’ ‘Air Arrivals I-94 Database Annual Datafile’ from 2014, 2013, 2012, and 2011 and its associated technical documentation.” You also requested “copies of the Office of Travel & Tourism Industries’ ‘U.S. International Air Travel Statistics Report (APIS/I-92) Data files’ from 2014, 2013, 2012, and 2011 and its associated technical documentation.”

Both the I-94 and the I-92 records are being withheld under 5 U.S.C. § 552(a)(4)(A)(vi), which provides that FOIA fees are superseded by “fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.” This is referred to as the displacement provision.

Under the displacement provision, where documents otherwise responsive to a FOIA request are maintained for distribution by an agency according to a fee schedule that is assessed pursuant to a “superseding fee statute,” requesters must obtain the documents from that source and pay the applicable fees designated by the agency under that statute (*see* OMB Fee Guidelines, 52 Fed. Reg. at 10,012-13, 10,017-18). The relevant superseding fee statute in this case is 15 U.S.C. § 1525, which provides in relevant part:



INTERNATIONAL
TRADE
ADMINISTRATION

The Secretary of Commerce is authorized, upon the request of any person, firm, organization, or others, public or private, to make special studies on matters within the authority of the Department of Commerce; to prepare from its records special compilations, lists, bulletins, or reports; to perform the functions authorized by section 1152 of this title; and to furnish transcripts or copies of its studies, compilations, and other records; upon the payment of the actual or estimated cost of such special work.

Section 1525 “specifically provid[es] for setting the level of fees for particular types of records” and therefore qualifies as a FOIA displacement statute (5 U.S.C. § 552(a)(4)(A)(vi)). Additionally, Department of Commerce FOIA Regulations specifically recognize 15 U.S.C. § 1525 as a FOIA displacement statute (15 C.F.R. § 4.3(c)).

Both the 1-94 and 1-92 records you requested are compilations of data which the ITA has authority to assemble and provide to members of the private sector upon request and payment of the specified fees gathered in order to “support the cost of this program” (*see* <http://travel.trade.gov/research/index.html>, explaining how to purchase the 1-94 and 1-92 records and outlining the required fees). As a result, these records are not available under the FOIA pursuant to the displacement provision.

However, ITA’s National Travel and Tourism Office (NTTO) can help you obtain the records you seek. Enclosed with this letter is a form that will allow you to obtain these records through NTTO. Should you have any questions about the form, you may contact NTTO at ntto@trade.gov or by calling 202-482-0140.

In accordance with 15 C.F.R. §§ 4.10(a) and (b), you have the right to appeal this determination within 30 calendar days from the date of this letter. The Department deems appeals arriving after normal business hours (8:30 a.m. to 5:00 p.m., Eastern Time, Monday through Friday) as received on the next normal business day. If the 30th calendar day for submitting an appeal falls on a Saturday, Sunday or legal public holiday, an appeal received by 5:00 p.m., Eastern Time, the next business day will be deemed timely. The appeal should include a copy of the original request, this response, and a statement of the reasons why you consider the Department made this determination in error. Please mail written appeals to the below address:

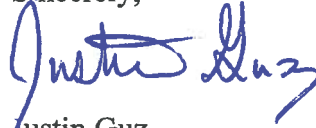
Assistant General Counsel for Litigation,
Employment, and Oversight
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Room 5898-C
Washington, D.C. 20230

You may send an appeal via facsimile to (202) 482-2552, by e-mail to FOIAAppeals@doc.gov, or through FOIAonline at <https://foiaonline.regulations.gov>, if you have a FOIAonline account. Clearly mark “Freedom of Information Act Appeal” on the facsimile cover sheet, in the e-mail

subject line, or on both the appeal letter and envelope. The Department does not provide an opportunity for personal appearance, oral argument, or hearing of an appeal.

As for your request for a fee waiver, there are no fees to charge in processing this request. Thank you for your interest in the ITA. Should you have any questions regarding this response, please contact me at (202) 482-7937 or at foia@trade.gov.

Sincerely,



Justin Guz
FOIA Officer
International Trade Administration

Enclosure

National Travel and Tourism Office (NTTO) - Order Form

You may fax your completed form to NTTO at (202) 482-2887.

Items marked with an "*" required

*Year of Pub.	*Publication Description	*Quantity	*Unit Price	*Total

Grand Total \$:

Mailing Information:

*First Name: *Last Name:

Company:

*Address

(Please include mailstop or room number if applicable)

*City: *State: *Zip/Postal Code:

*Country:

Contact Information

*Contact Telephone: Contact Fax:

Contact E-Mail:

Please provide if you require us to email information.

Billing Options: Please check the appropriate box for billing options

- ☐ Please invoice me, see below.
- ☐ I would like to pay using a credit card, I will call the (202) 482-0140 number after I have faxed this form and a few minutes have passed so the fax may be received and logged in.
- ☐ I would like to pay using a credit card, please call me.

Billing Information

If you choose to be invoiced (payment by check), reports will be shipped within three business days upon receipt of check. Please make checks payable to the: **U.S. Department of Commerce**. Send your check to NTTO with a copy of this order form.

Mail payments to: International Trade Administration, National Travel and Tourism Office (NTTO), 1401 Constitution Avenue, N.W., Room 10003, Washington, DC 20230

If you choose to pay by credit card, reports will be sent to within 3 business days upon confirmation of your credit card. Our office accepts the following credit cards: Visa, MasterCard, Discover and American Express. Please contact our office at 202-482-0140 to pay via credit card. Our office accepts electronic payment for some data, please contact our office regarding it.

If you have any questions on this order form or on orders, please contact our office by e-mailing us at: ntto@trade.gov or call us at (202) 482-0140.